

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELAM UTILITY COMPANY D/B/A)	
ELAM UTILITY COMPANY, INC.)	
AND)	
WILMA B. ISON)	
AND ROBERT D. ISON, INDIVIDUALLY)	
AND AS OFFICERS OF THE UTILITY)	
_____)	CASE NO. 2003-00488
)	
ALLEGED VIOLATIONS OF)	
THE COMMISSION'S ORDER)	

O R D E R

On May 28, 2003, the Commission initiated a review of Elam Utility Company d/b/a Elam Utility Company, Inc. ("Elam") in Case No. 2003-00171.¹ The Commission issued an Order on October 24, 2003, which, among other things, ordered Elam to file its Gas Cost Adjustment ("GCA") by December 1, 2003.

The Order of October 24, 2003 also directed Elam to file the following:

1. Written evidence that it has paid accrued interest on its customer deposits, to be filed by January 10, 2004 (ordering paragraph 5).
2. The monthly general ledger and copies of bank statements for the previous month, to be filed by December 20, 2003 (ordering paragraph 6 as amended by Order of November 24, 2003).

¹ Case No. 2003-00171, A Review of the Rates of Elam Utility Company, Inc. Pursuant to the Decision to Approve the Financing Requested in Case No. 2001-00324.

A review of Commission records reveals that Elam has failed to enter the filings as directed by the Commission's Order. The Commission, being otherwise sufficiently advised, finds that:

1. The Order of October 24, 2003 is a final Order from which all rights of appeal have been exhausted.

2. The Order of October 24, 2003 directed Elam to file its GCA on or before December 1, 2003.

3. The Order of October 24, 2003 directed Elam to pay, by December 31, 2003, all accrued interest on its customer deposits from the last interest payment date and submit written evidence to the Commission, by January 10, 2004, that it has paid the interest.

4. The Order of October 24, 2003, as amended, directed Elam to file for all months after October 2003, by the 20th of every month, the monthly general ledger and a copy of the bank statement for the preceding month.

5. As of January 15, 2004, Elam has not filed its GCA with the Commission, has not filed written evidence with the Commission, by January 10, 2004, that it has paid the interest on its customer deposits, and has not filed the monthly general ledger and a copy of the bank statement for the preceding month.

6. A *prima facie* showing has been made that Elam has violated the Commission's Order of October 24, 2003, as amended by an Order of November 24, 2003, by failure to timely file its GCA, its customer deposit interest payment, and its monthly general ledger and bank statements for the preceding month.

7. A *prima facie* showing has been made that Wilma B. Ison and Robert D. Ison have aided and abetted Elam in its violation of the Commission's Order.

The Commission, on its own motion, HEREBY ORDERS that:

1. The show cause Order dated December 24, 2003 is amended to allege that Elam and Wilma B. Ison, President of Elam, and Robert D. Ison, Vice President of Elam, shall appear before the Commission at the time and place stated in the Order for the purpose of presenting evidence concerning their alleged failure to timely make a GCA filing; to submit written evidence to the Commission that Elam has paid the interest on its customer deposits by January 10, 2004; and to file the monthly general ledger and a copy of the bank statement for the preceding month, as directed in the Commission's Order of October 24, 2003 as amended, and of showing cause why Elam; Wilma B. Ison and Robert D. Ison, jointly and severally, should not be subject to the penalties prescribed in KRS 278.990(1).

2. The Commission does not favor motions for continuance and will grant them only when such a motion is made in writing and states compelling reasons for granting the motion.

3. Corporate entities are advised that under Kentucky law a corporation, its employees, and any representatives, who are not licensed to practice law in Kentucky, are not permitted to make objections, examine, or cross-examine witnesses in administrative hearings.²

² Turner v. Kentucky Bar Ass'n., Ky., 980 S.W.2d 560 (1998), and Practice Before The Commission By Attorneys Non-Licensed In The Commonwealth Of Kentucky, Admin. Case No. 249, Order dated June 15, 1981.

4. The record in Case No. 2003-00171 is incorporated by reference into the record of this proceeding.

Done at Frankfort, Kentucky, this 16th day of January, 2004.

By the Commission

ATTEST:


Executive Director

